

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

MICHAEL J. MYERS,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Civil Action No. 4:14-cv-04121-LLP
	)	
	)	
JASON M. GANT, in his official	)	
capacity as Secretary of State for the	)	
State of South Dakota,	)	
	)	
Defendant.	)	

**Plaintiff's Motion for Preliminary Injunction and Request for Oral Argument**

Pursuant to Federal Rule of Civil Procedure 65, the plaintiff Michael J. Myers hereby requests that this Court enjoin the defendant Jason M. Gant, Secretary of State for the State of South Dakota, from printing the South Dakota ballot for the November 2014 general election without the name of Myers' replacement Lieutenant Governor candidate, Lora Hubbel, on the Independent gubernatorial ticket.

This Motion implicates plaintiff Myers' fundamental rights under the First and Fourteenth Amendments of the U.S. Constitution. The plaintiff's civil rights are presently threatened by Secretary Gant's failure to provide equal ballot access to the Independent gubernatorial candidate.

A preliminary injunction is justified, as discussed in Plaintiff's accompanying Memorandum in Support of Plaintiff's Motion for Preliminary Injunction, because: (1) plaintiff Myers has a substantial likelihood of success on the merits of his claims because the defendant's action is unconstitutional; (2) irreparable harm will result if the preliminary injunction is not issued because Myers' replacement candidate for Lieutenant Governor would not appear on the general election ballot; (3) the balance of hardships favors the plaintiff in the granting of preliminary injunctive relief; and (4) it is not in the public's interest to unnecessarily confuse voters by leaving the name of plaintiff Myers' original running mate on the ballot since she has effectively withdrawn from the gubernatorial race. Accordingly, plaintiff Myers respectfully moves this Court to adjudicate this motion on an expedited basis and to grant plaintiff Myers' request for a preliminary injunction.

For the reasons stated above, plaintiff Myers respectfully requests that the Court order that Secretary Gant, and his agents and employees, are enjoined from any application or enforcement against the plaintiff, and that the defendant should be enjoined from refusing to place the name of Lora Hubbel on the general election ballot as the Independent candidate for Lieutenant Governor of South Dakota.

Plaintiff also requests oral argument on this motion which involves important issues of constitutional and statutory law.

Respectfully submitted,

MICHAEL J. MYERS

By his attorney,

/s/ Edward K. Welch

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Date: August 6, 2014

**CERTIFICATE OF SERVICE**

I, Edward K. Welch, hereby certify that a copy of the foregoing, filed through the CM/ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and a paper copy shall be served by mail, certified mail, on the Office of the Attorney General, 1302 East Hwy 14, Suite 1, Pierre, SD 57501-8501, who are not served through the CM/ECF system on August 6, 2014.

/s/ Edward K. Welch

Edward K. Welch, Attorney for Plaintiff